

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and	)	WC Docket No. 11-42
Modernization	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109

**COMMENTS OF THE INDIANA UTILITY REGULATORY COMMISSION  
REGARDING THE LIFELINE AND LINK UP NPRM**

The Indiana Utility Regulatory Commission (“IURC” or “Indiana Commission”) hereby submits these comments in response to the Federal Communications Commission’s (“FCC”) Notice of Proposed Rulemaking in the Matter of Lifeline and Link Up Reform and Modernization, released March 4, 2011. The FCC seeks comment on questions and proposals presented in the Notice of Proposed Rulemaking (“NPRM”). The IURC will comment in areas where Indiana has particular concerns or experience to share. The Indiana Commission appreciates the opportunity to provide input on the potentially sweeping policy decisions being considered by the FCC in order to reform and modernize the Lifeline and Link Up program and, in part, to implement the National Broadband Plan.

**I. Indiana’s Experience with and Interest in Lifeline and Link Up**

Indiana’s regulatory climate is generally described as “light regulatory touch,” based on the latest legislative update of statutory authority.<sup>1</sup> In most cases, the IURC does not have jurisdiction to regulate retail rates for telecommunications services or other communications

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<sup>1</sup> House Enrolled Act 1279, passed by the Indiana General Assembly on March 14, 2006.

services;<sup>2</sup> however, the IURC retains jurisdiction in those areas in which it is delegated authority by Federal statute, FCC regulation, or Indiana statute. The IURC has clear jurisdiction to fulfill its obligations concerning universal service and access to telecommunications services, including Lifeline and Link Up.<sup>3</sup>

In addition, Indiana has established and is implementing its own state Universal Service program<sup>4</sup>, and is in the process of a rulemaking establishing the Indiana Lifeline Assistance Program (“ILAP”) under authority of Indiana statute, Ind. Code 8-1-36, and based on the structure of the Federal Lifeline program.<sup>5</sup> Since modifications and improvements made to the Federal Lifeline program could have a direct impact on the currently-pending ILAP Rulemaking, the Indiana Commission is keenly interested in reforms advanced or on which comment is sought in this proceeding.

The Indiana Commission embraces and endorses the comments of FCC Chairman Julius Genachowski in the NPRM:

“...[T]he Commission has not comprehensively reexamined the [Lifeline/Link Up] program, or implemented clear performance goals or sufficiently robust protections against waste, fraud and abuse. Every Lifeline/Link Up dollar that today gets spent on duplicate service, ineligible participants, or other waste or inefficiencies is a dollar that could go to helping more low-income Americans connect.

“And Lifeline/Link Up has grown more rapidly over the past few years, increasing the contribution burden on consumers and businesses throughout the country, which can undermine our universal service goals.”<sup>6</sup>

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<sup>2</sup> Ind. Code 8-1-2.6-13

<sup>3</sup> The IURC’s general jurisdiction over universal service was established under Ind, Code § 8-1-2.6-13(d)(5).

<sup>4</sup> Final Order in Cause No. 42144, Approved March 17, 2004; upheld on appeal in *Nextel W., Corp. v. Ind. Util. Regulatory Comm’n.*, 831 N.E.2d 134 (Ind. Ct. App. 2005).

<sup>5</sup> In Ind. Code 8-1-36, the Indiana General Assembly directed the IURC to establish the ILAP to offer reduced charges for basic telecommunications service to eligible customers, with funding based upon and consistent with comparable federal funding mechanisms for the Federal Lifeline program.

<sup>6</sup> Statement of Chairman Julius Genachowski, *Federal-State joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Lifeline and Link-Up Reform and Modernization*, WC Docket No. 11-18; p. 131.

The Indiana Commission's comments speak to:

- Immediate reforms;
- Steps designed to improve accountability for all parties, including consumer recipients of assistance, the carriers which receive financial subsidies, and the Federal and state agencies tasked with implementation; and
- Holding investments to an affordable level to protect against over-burdening those who contribute to the Universal Service Fund.

## **II. Immediate Reforms to Eliminate, Waste, Fraud and Abuse**

The public interest is defined both by meeting the needs of citizens eligible for the Lifeline Link Up program with maximum efficiency, and by deterring waste, fraud and abuse. The IURC commends the FCC for seeking to strike this balance and supports the concept that the FCC should strengthen its rules to ensure the program subsidizes no more than one subscription per eligible residential address. While the IURC cannot comment on all the proposals contained in this section of the NPRM, what follows are some suggestions regarding immediate reforms of the program that should be undertaken.

### ***Measures to Assist in Detecting Duplicate Claims***

The privacy rights of eligible Lifeline participants must be balanced against the implementation of precautions which assure to the greatest extent possible that recipients are not "double dipping" or otherwise receiving duplicate benefits to which they are not entitled. The Indiana Commission asserts that a provision requiring eligible program participants to provide full legal name, address, and the last four digits of their social security number at the time of application represents a reasonable compromise between protection of privacy rights and the obligation to provide sufficient information to minimize the likelihood of ineligibility due to duplication of benefits. Eligibility should be limited to one U.S. citizen per household who is 18 years of age or older or an emancipated minor.

The FCC should codify as a rule the current practice of requiring unique residential address information in order to assist eligible telecommunications carriers ("ETCs") and the

Universal Service Administrative Company (“USAC”) in determining whether an applicant is already receiving Lifeline or Link Up supported services. The Indiana Commission supports the current policy and practice of not permitting customers to obtain Lifeline Link Up service when using a P.O. box as their mailing address, unless applicants in rural areas also provide a street address. The IURC agrees with the FCC’s assertion that address information is particularly important to prevent duplicate subsidies to the same household. Further, requiring a unique street address promotes a more competitively neutral use of the subsidy because wireline Lifeline and Link Up service providers must have a specific household address in order to provide service. P.O. boxes can be difficult to trace to the P.O. box holder, making it easier for misuse of the program to take place without detection.

#### ***Eliminating Reimbursement for Toll Limitation Service***

The FCC proposes amending its rules to eliminate Lifeline support for the cost of providing Toll Limitation Services. The Indiana Lifeline Assistance Program, currently being established via rulemaking, requires Toll Limitation Services but is silent as to reimbursement for the cost of providing such services. Generally, the Indiana Commission supports requirements that are technologically neutral; however, the difference between wireline and wireless is such in this area that it is appropriate to distinguish between these services. Simply, with wireless, minutes are minutes, regardless of whether the calls are local or long distance. Consequently, there is no need for wireless providers either to offer or to be able to charge for toll limitation service. In addition, the use of prepaid Lifeline providers allows the customer to control the costs of services by the amount they prepay.

#### ***Defining Customary Charges Eligible for Link Up***

The FCC is correct to eliminate incentives or opportunity for carriers to impose charges on program participants in order to increase universal service support. No fee should be chargeable for Lifeline-supported services which are not applicable to customers who are not Lifeline customers. The fact that several prepaid wireless Lifeline offerings (i.e. TracFone, Virgin Mobile, i-wireless) include free phones and do not include initiation fees, suggests that the cost to wireless providers for initiating service is nominal. The IURC also questions whether

the cost to wireline carriers for initiation of new service is significant enough for Lifeline reimbursement if it does not require new installation or a service visit. Since retail rates for telecommunications services are deregulated in Indiana, the IURC does not have access to data regarding the typical cost of service installation. The IURC suggests that the FCC eliminate the Link Up subsidy for wireless providers and for wireline providers alike, unless greenfield (new) installation of equipment and/or facilities is required.

### ***Customer Usage of Lifeline Supported Services***

The FCC seeks comment on a proposed rule prohibiting ETCs from obtaining Lifeline support for inactive consumers, specifically for any Lifeline customer who has failed to use his or her service for 60 consecutive days, or possibly for as few as 30 or as many as 90 consecutive days. The IURC would be supportive of a federal rule prohibiting Lifeline support for customers who have been inactive for not less than 60 days. Many states, including Indiana, have conditioned ETC designation of prepaid wireless carriers on similar requirements. However, Indiana did permit a 90 day non-use period rather than a 60 day non-use period (errring on the side of not disconnecting customers who use their phones sparingly) for Indiana's prepaid wireless ETC designation case of first impression.<sup>7</sup> The IURC found that "... prepaid wireless providers may be especially vulnerable to misapplication of the program due to the appeal of free phones and free minutes." To date, the IURC has not imposed similar conditions upon traditional local exchange ETCs or postpaid wireless ETCs.

### ***Minimum Consumer Charges***

The IURC concurs with the concerns of the Joint Board in the *2010 Recommended Decision* ("RD") regarding consumers receiving Lifeline Service offerings at no cost to the subscriber and advocates that the FCC adopt a rule requiring all ETCs in all states to collect a minimum monthly amount from participating households. Prior to the advent of prepaid wireless Lifeline providers, the federal Lifeline program was applied as a telephone discount program intended to make phone service affordable for low income households. While the Indiana Commission commends prepaid wireless Lifeline providers for actively marketing the Lifeline

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<sup>7</sup> IURC Cause No. 41052 ETC 55, Final Order, Released November, 10, 2010.

program, the Indiana Commission also has concerns that free prepaid phone service is more vulnerable to abuse. It is axiomatic in economics that as the price of a commodity approaches zero, demand approaches infinity. Balancing the goal of increasing the reach of Lifeline must be the recognition that the resources, while considerable, are finite and limited. A number of prepaid wireless ETCs, in particular, do not provide a monthly bill to the customer and, in some cases, provide handsets and service (within the constraints of a given plan) at no charge to consumers.

The Indiana Commission recommends that on a going-forward basis, all Lifeline plans be required to impose a minimalist threshold monthly fee for service, initially to be set at the lesser of: (1) five dollars (\$5.00) per month or; (2) the highest monthly Subscriber Line Charge imposed by an ILEC within the service area covered by the Lifeline plan. Imposition of this modest charge, representing a maximum of about sixteen cents (\$0.16) per day, will have the effect of demonstrating at least a threshold value on the part of the subscriber, helping to assure that some level of need is perceived by the subscriber. This would also lessen the degree to which there is subsidized asymmetry among various providers (wireline, traditional wireless, and prepaid wireless).

However, the Indiana Commission recognizes that many states, including Indiana, have designated prepaid wireless Lifeline providers conditioned upon offering Lifeline plans that provide a free phone and a certain number of free minutes per month. This indicates that prepaid wireless ETCs can make such offerings at a reasonable profit. If the FCC were to impose a minimum contribution by the Lifeline customer, those customers should in turn get additional usage or other benefit. State commissions in particular should be encouraged to re-evaluate such conditions and seek additional prepaid minutes for Lifeline customers in their state; or alternatively, the Lifeline customer contributions could be used to offset the costs of the Low Income program.

In Indiana's prepaid wireless ETC designation of first impression<sup>8</sup>, Lifeline plans include:

Offer	Cost	Additional Minutes and Text
250 minutes of talk time	\$0	\$0.10 per minute or \$0.10 per each text
500 minutes of talk time	\$5.00	\$0.10 per minute or \$0.10 per each text
1000 minutes of talk time and 1000 text messages	\$20.00	\$0.10 per minute or \$0.10 per each text

### III. Containing the Size of the Fund

In his Statement concurring in part and dissenting in part with the Recommended Decision (RD) of the Federal-State Joint Board on Universal Service issued November 4, 2020, former Joint Board State Chairman and Oregon Public Utility Commission Chairman Ray Baum stated, in part:

“In the past two years, the low-income fund has increased at an annualized rate of 30%. Left unchecked, the fund will easily reach \$2 billion within the next two years. To date, much of the attention given to the low-income program has been focused on increasing participation rates. In this referral, we were asked to consider widening eligibility requirements by making all states follow federal eligibility requirements as a minimum and by expanding the qualifying income levels. Given the recent efforts to relax the low-income fund requirements, and the stated desire to transition support to broadband services, it may be time to ask whether the program has sufficiently met its goals of enabling universal service. FCC data shows that 95.7 percent of all households in the country have phone service. Among low-income households, 90.4 percent have phone service, up from 80 percent when Lifeline was first established in 1985. Even among households with income under \$5000, 88 percent have phone service available. Rather than adopting less stringent income eligibility standards or

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<sup>8</sup>IURC Cause No. 41052 ETC 55

forcing states to adopt expanded eligibility requirements, we should be focusing our efforts on determining why those customers who are currently eligible for support have chosen not to seek Lifeline service, and how to remove barriers to participation for eligible customers. [emphasis added].”

To this the Indiana Commission adds that the process would benefit from a comparative analysis which sheds light on the differentials which occur among the states in terms of “take rates,” whether with or without Lifeline assistance. These foundational questions should have been addressed in the RD. The Indiana Commission renews the call of former Chairman Baum to examine them in this proceeding. That said, the Indiana Commission now addresses the specific questions posed by the FCC with regard to a cap.

The FCC seeks comment on whether it should set a cap on the size of the low-income fund – “for example, at the 2010 disbursement level of \$1.3 billion.”<sup>9</sup> The FCC also asks whether a cap should be higher or lower than the 2010 level of \$1.3 billion. While noting that “fund growth is not necessarily indicative of waste, fraud, and abuse,” the FCC observes that many of its proposals to reduce waste, fraud, and abuse could also reduce expenditures and the size of the program and/or expand the reach of the program.<sup>10</sup> The IURC supports immediate action to control the size of the low-income fund – including setting caps on the amount of support to be provided, as discussed further, below.

However, any cap should be designed in a manner that does not penalize states, such as Indiana, that have a large number of remaining unserved Lifeline eligible citizens. According to USAC, there were an estimated 566,316 households in Indiana that were eligible for low-income support, as of December, 2009. Based on that figure, USAC estimates that 511,298 of the eligible households in Indiana did not participate in the Lifeline Link Up program in 2009, for a participation rate of 9.01%.<sup>11</sup> Indiana also has lower overall telephone penetration rates than the

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<sup>9</sup> NPRM, ¶ 145

<sup>10</sup> NPRM, ¶ 144

<sup>11</sup> (USAC PowerPoint presentation to IURC and Indiana low-income support recipient companies: June 23, 2010). For maps, see: <http://www.usac.org/li/about/participation-rate-information.aspx#2009> (last visited March 22, 2011). In order to ensure that the FCC, states, industry, and consumer advocates are making decisions based on current, accurate data, the FCC should require USAC to update the eligibility statistics as soon as possible following changes in the applicable federal Lifeline rules on eligibility and verification.



national average. The IURC has taken a strong stance against wasteful or unnecessary use of universal service funds. However, the IURC has also taken steps to designate ETCs that serve the low income market; are effective at marketing the Lifeline program to eligible customers; and take measures to control abuse of the program. With time and with designation of ETCs that target the low income Indiana consumers, the IURC is optimistic that the Lifeline take rate will improve. Any cap the FCC may ultimately implement should take into consideration unserved, eligible customers and allow states room to improve and should not penalize those states that are: (1) taking steps to improve their Lifeline subscribership rates, while (2) still attempting to control waste, fraud, and abuse and limit the growth in the size of the fund.

The FCC asks, if the program were capped, what methods may need to be implemented for prioritizing support among potential recipients? “Should current recipients in the program receive priority funding within a capped system? Alternatively, should funding be available on a first-come, first-served basis after a specified for re-enrollment in the program?”<sup>12</sup> The FCC then asks, “Should monthly benefits be reduced to ensure that all eligible households that seek to participate in the program can do so, even if they would receive a smaller benefit than program participants currently receive?”

The FCC is correct to ask how to balance priorities. However, the FCC’s proposed balancing should not overlook at least one critical factor: the need to address the Lifeline take rate – particularly in states that have had a low take rate in the past. This omission could easily cause the distribution mechanism to punish states like Indiana. Finally, any effort to cap the size of the low-income fund should not be viewed in a vacuum; it should be viewed in the overall context of both Lifeline and universal service reforms – including possible expansion of the outreach requirements.<sup>13</sup>

The IURC opposes the FCC’s proposals to arbitrarily assign a higher priority to existing Lifeline customers or to disburse Lifeline support on a first-come, first-serve basis. Both of those proposals – but particularly the former – would make it very difficult for states with a historically low Lifeline take rate to make improvements. It is not obvious that a one-size-fits-all approach to prioritizing competing goals associated with the Lifeline program is appropriate. As

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<sup>12</sup> NPRM, ¶ 148

<sup>13</sup> See, Lifeline NPRM, SECTION VIII.

one option, the FCC could consider a formula which provides flexibility for states with low Lifeline subscribership rates to increase their subscribership rates. Less flexibility would be needed in states that have already achieved some higher levels of subscribership.

While the Indiana Commission does not have a comprehensive proposal at this time, it offers the following conceptual framework for discussion purposes; this framework recognizes the importance of increasing Lifeline subscribership in states with low take rates and controlling the size of the low-income program:

**STATE-SPECIFIC CAPS, TO BE DESIGNED BASED ON A WEIGHTED, THREE-PRONGED FORMULA (APPROXIMATELY 1/3 WEIGHT FOR EACH ELEMENT):**

1. Number (#) of unserved eligible households in a state;
2. The inverse of the percentage (%) of unserved eligible households in a state; and
3. General population of a state (number of households).

By way of analogy, the Indiana Commission points to the “Early Adopter Fund” portion of the Missoula Plan for universal service and intercarrier compensation reform.<sup>14</sup> Without endorsing any particular portion of the Missoula Plan in these comments, the Indiana Commission supports the concepts behind the Early Adopter Fund – to take into account circumstances in states that reflect either an “early adopter” approach or its struggles to attain desirable public policy objectives, as indicated by enacted statutes, administrative rules, and orders. These concepts could be instructive in the instant context of capping the size of the low-income fund while simultaneously rewarding states or companies that have taken steps to eliminate waste, fraud, and abuse in the Lifeline program; encouraging additional Lifeline subscribership; and discouraging excessive disbursements – regardless of when those actions occurred.

Thus far this proceeding has not fully identified the source of additional funding needed if Lifeline subscribership were to increase substantially (e.g., due to modifications to eligibility requirements and/or expanded outreach efforts). Setting aside the NBP, the RD itself notes that it

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<sup>14</sup> *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, DA 06-1730, rel. August 29, 2006.

would not be unreasonable to estimate that the size of the Low Income fund could grow to at least \$2 billion in the next few years, before including any growth attributable to adding support for broadband.

In the various proceedings currently in the comment period, inadequate attention has been paid to the potential impact of growth in other areas of the USF, given the FCC's commitment to capping the overall size of the USF. In particular, the Indiana Commission remains concerned about the financial health of the Rural Local Exchange Carriers (RLECs) and mid-size companies, and about the importance of existing High Cost support of their operations and amortization of debt. The NBP contains ambitious broadband deployment proposals that will require billions of dollars in funding, likely significantly greater than the \$23.5 billion projected to bridge the Broadband Availability Gap identified in the NBP. Acknowledgment of the need for "significantly higher [amounts of funding] than the incremental calculation indicates" was included in the USF NOI/NPRM, but only in a staff technical paper and a footnote. There is a clear need for a more robust debate on both the sources and uses of universal service funding, and whether sufficient funds remain to meet the legitimate ongoing needs of providers in rural, insular and high cost areas.

#### **IV. Improving Program Administration**

##### ***Database***

The NPRM seeks comment on implementation of a database which verifies that certain households or customers are eligible for the Lifeline Link Up program and safeguards against duplicate claims. While the IURC cannot provide comprehensive suggestions for the scope and parameters of such a database, the IURC offers some suggestions and concerns. Database design criteria should be identified through further comment by states once uniform baseline standards and eligibility metrics have been established.<sup>15</sup>

As stated in Section II of these comments, the Indiana Commission supports provisions requiring eligible program participants to provide full legal name, address and the last four digits

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<sup>15</sup> Low Income assistance programs, such as Low Income Heating Assistance Program (LIHEAP), Supplemental Nutritional Assistance Program (SNAP), etc., which are determined to be those which qualify eligible participants.

of their social security number at the time of application. Such provisions represent a reasonable compromise between protection of privacy rights and the obligation to provide sufficient information to minimize the likelihood of ineligibility due to duplication of benefits.

The IURC's qualified support for use of a unique national identifier should not be construed as support for the specific proposals of AT&T or any other provider for a national database. Further, the IURC strongly cautions the FCC that the cost of implementing a database, if the FCC chooses this scenario, should not fall on states or their social service agencies. Most states' budgets are already under substantial strain; therefore, now is not the time to place additional fiscal demands on state agencies.

## **V. Modernizing the Low Income Program**

### ***Redefining Supported Services***

The NPRM seeks, consistent with the USF/ICC Transformation Notice, to amend the definition of "Lifeline" in section 54.101 to provide support for a set of defined functionalities to be provided to ensure quality service for low-income customers. In the IURC's opinion, it is reasonable to reconsider the minimum bandwidth of 300 to 3,000 Hertz for voice grade access. However, the other functionalities in 47 CFR 54.101 are still relevant, including the equivalent of single party service and a certain amount of local usage or minutes included per month. Additional per-minute or per-text charges -- whether covered by Federal and/or state Lifeline reimbursement or paid directly by the subscriber -- should not exceed the per-minute or per-text charges available to non-Lifeline customers based on a comparable level of usage. If applicable taxes and fees for services such as E-911 are not covered within the base price of any plan, they shall not exceed the charges levied on non-Lifeline customers.

Another implication of the FCC's proposal is the use of the term "voice telephony". If this term is to include Voice over Internet Protocol ("VoIP"), this could pose a challenge for states which do not have clear jurisdiction over certain aspects of VoIP services. If the FCC envisions VoIP as a supported service, the FCC should affirm states' authority to designate VoIP providers as ETCs and impose appropriate, competitively neutral conditions on such ETCs.

### ***Re-evaluated Support Amounts and the Tier System***

In response to the FCC inquiry regarding the four-tier reimbursement system, the IURC does not have comments at this time regarding Tier 1, 2, and 4. However, Indiana has a pending Rulemaking to implement a state Lifeline program (“ILAP”). Tier 3 support is an integral part of the Proposed ILAP Rule and may have encouraged the Indiana General Assembly to enact Indiana Code 8-1-36, which mandated that the IURC adopt a Lifeline Assistance Program. If the match is lowered, this would reduce the benefits of instituting a state Lifeline program which is in process. Unlike some states noted in footnote 431 of the NPRM, Indiana’s proposed rule provides an actual match of federal dollars, paid for via a surcharge imposed upon all Indiana telecommunications customers, similar in structure to the federal universal service surcharge.<sup>16</sup>

### ***Broadband Pilot Program***

The NPRM seeks comment on the role the states should play in any pilot program integrating broadband service into the low-income program.<sup>17</sup> The IURC strongly encourages the FCC to seek the states’ assistance in identifying target populations and in assistance with administration. States’ public service commissions or other state agencies are likely to have records or maps on broadband availability or population characteristics that may not be available at the national level.

In addition, the IURC offers the following broad proposals on the methodology to be used in designing a broadband pilot program. We recommend that the FCC consider four separate populations, each selected to match the other three demographically, geographically and topographically as closely as possible:

1. control population with no broadband pilot programs
2. population with both a USF and a Lifeline pilot program
3. population with USF pilot, but no Lifeline pilot program
4. population with Lifeline pilot, but no USF pilot program

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<sup>16</sup> IURC Rulemaking - RM # 10-01

<sup>17</sup> NPRM, ¶ 291

For the population with both pilot programs, if there is a gain in broadband adoption, the FCC will need to determine whether the net gain exceeds the gains of just one program sufficiently to justify the cost of an additional program.

The Indiana Commission also offers the following observation relevant to both the initial design of the pilots and the proper interpretation of the outcomes of the various pilot programs. As Mr. Eric Einhorn, Vice President of Federal Government Affairs with Windstream Communications has observed, “it is important to note that there is a difference between an area that is unserved and an area that is uneconomic to serve.”<sup>18</sup> Some areas may not have broadband, not because those areas are uneconomic to serve (i.e., not because it would not be possible for any company to make a profit doing so), but simply because of decisions individual companies may make regarding their respective business and marketing strategies, allocation of resources, construction budgets, etc.

***Eligible Telecommunications Carrier Requirements.***

In Section IX C of the NPRM, the FCC seeks comment on a number of proposals to restructure Eligible Telecommunications Carrier requirements.<sup>19</sup> One proposal would provide two separate frameworks for Lifeline providers and ETCs. If the FCC decouples Lifeline-only providers from Section 214(e) of the Telecommunications Act, this would permit incumbent local exchange carriers to relinquish their obligation to provide Lifeline and Link Up services to low income customers. The Indiana Commission is concerned this would lead to many Lifeline customers not having the option of getting Lifeline support on their primary wireline phone. While wireless Lifeline plans are becoming increasingly popular, they are not uniformly the best solution for all Lifeline customers, particularly those that need a fixed landline and make a high volume of local calls. We believe providing Lifeline and Link up should continue to be an obligation for all ETCs.

If the FCC were to adopt the framework suggested by AT&T,<sup>20</sup> it needs to be very clear

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<sup>18</sup> Ex Parte Filing, Windstream Communications, Inc., WC Docket 10-90, GN Docket No. 09-51, CC Docket 96-45, WC Docket 05-337, WC Docket 03-109 and WT Docket 10-208, April 12, 2011.

<sup>19</sup> NPRM, ¶ 312

<sup>20</sup> NPRM, ¶ 310

to delegate states' authority to designate Lifeline only providers to implement the low-income program. States often have more detailed information than the FCC regarding the actions of carriers providing service in their states. States have alerted the FCC to potential abuses of the program in the past, have provided meaningful conditions on ETCs (whether seeking support from the High Cost Fund or the Low Income Fund), and have taken other initiatives to limit cream-skimming and waste. The partnership of the FCC and states in designating appropriate carriers to receive federal subsidies will continue to remain important. It is also important that Lifeline subsidies are not given to carriers that have a competitive advantage over traditional carriers because they avoid contributions to state funds, such as 911 and telecommunications relay for hearing and speech impaired individuals, or other similar funds. This would undermine the telecommunications and broadband network that benefits all communications service providers and their customers. The ETC designation process provides a vehicle to ensure there is competitive neutrality.

Further, the IURC has concerns regarding the FCC proposal for a blanket forbearance from the facilities requirement for Lifeline only providers.<sup>21</sup> This would likely result in a larger influx of wireless resellers and bundled resellers of local service to petition states for ETC designation. While the IURC acknowledges the value of a competitive marketplace, the IURC questions the value of numerous Lifeline providers that have a limited investment in a given state and a limited history of serving low-income markets within that state.

States should be delegated the tools to designate carriers that have demonstrated regulatory compliance and investment in the state. In the *2005 ETC Designation Order*, the FCC contemplated, but opted not to adopt the Joint Board's recommendation that ETCs demonstrate that they have adequate financial resources. The rationale was, in part, that the build out requirements and other ETC designation criteria to be adopted in the *2005 ETC Designation* order would ensure adequate financial resources.<sup>22</sup> The IURC suggests that the FCC revisit the Joint Board's suggestion that Lifeline-only providers demonstrate adequate financial resources. While this would not provide a guarantee that a company wouldn't be tempted to manipulate the Lifeline subsidy, companies that have made a business case to serve a certain market in a state

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<sup>21</sup> NPRM, ¶ 304

<sup>22</sup> In the Matter of Federal –State Joint Board on Universal Service, CC Docket 96-45, Released March 17, 2005, ¶ .

prior to receiving Lifeline subsidies may be less inclined to risk being cited for non-compliance with the program.

## **VI. Conclusion**

In closing, the Indiana Commission commends the FCC for the robustness reflected in the issues identified for comment in this proceeding, and for its attention to the issues raised in the Joint Board's RD of November, 2010. This proceeding poses questions necessary to address the need for reform. However, it is short on identification of standards or metrics for determining when and the extent to which the program has achieved success in solving those problems. The Indiana Commission hopes that the core issues and corresponding metrics can be addressed in the Reply phase of this comment cycle.

Former Chairman Baum's framing of the issues is worthy of revisiting:

"Given the recent efforts to relax the low-income fund requirements, and the stated desire to transition support to broadband services, it may be time to ask whether the program has sufficiently met its goals of enabling universal service. Rather than adopting less stringent income eligibility standards or forcing states to adopt expanded eligibility requirements, we should be focusing our efforts on determining why those customers who are currently eligible for support have chosen not to seek Lifeline service, and how to remove barriers to participation for eligible customers."

Likewise is his focus on what may be the key metrics:


"FCC data shows that 95.7 percent of all households in the country have phone service. Among low-income households, 90.4 percent have phone service, up from 80 percent when Lifeline was first established in 1985. Even among households with income under \$5,000, 88 percent have phone service available."

The Indiana Commission is hopeful that the FCC will weigh the comments of the parties against the need to focus on a succinct, clearly defined statement of goals and public policy, as well as on a robust definition of metrics for evaluation.



Respectfully submitted this 21<sup>st</sup> day of April, 2011.

INDIANA UTILITY REGULATORY COMMISSION



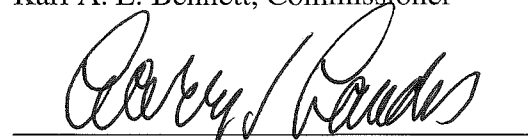
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James D. Atterholt  
Chairman



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Kari A. E. Bennett, Commissioner



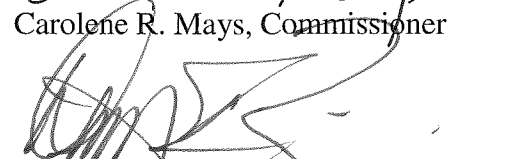
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Larry S. Landis, Commissioner  
Member, Federal-State Joint  
Board on Universal Service



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Carolene R. Mays, Commissioner



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David E. Ziegner, Commissioner